

(SUBSTITUTE NO. 2)
RESOLUTION NO. A-_____

1 WHEREAS, Landon Osborne has submitted an application for a permit to use the
2 public right-of-way at 1840 E Street for the installation of a fence/wall; and

3 WHEREAS, said applicant has submitted a letter of application and two sites plans
4 (original plan and two revised plans per Public Works) which are attached hereto, marked as Exhibit
5 "A", Exhibit "B", Exhibit "C", and Exhibit "D" respectively, and made a part of this resolution by
6 reference, to use the public right-of-way as above described; and

7 WHEREAS, said applicant has complied with all of the provisions of Chapter 14.54
8 of the Lincoln Municipal Code pertaining to such use.

9 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln,
10 Nebraska:

11 That the application aforesaid of Landon Osborne, hereinafter referred to as
12 "Permittee" to use the public right-of-way adjacent to property legally described as the east half of
13 Lot 11 and all of Lot 12, Block 2, Capitol Addition, commonly known as 1840 E Street, is granted
14 as a privilege only by virtue of and subject to strict compliance with the site plan (Exhibit "D"), the
15 letter of application, and the following terms and conditions, to wit:

16 1. That the permission herein granted is granted as a privilege only, and is
17 subject to all the terms and conditions of Chapter 14.54 of the Lincoln Municipal Code including the
18 filing of a certificate of insurance with a minimum combined single limit of \$500,000 aggregate for
19 any one occurrence. The provisions relating to the posting of a continuing bond are waived.

20 2. That said use shall be in full accordance with the aforesaid application, the
21 site plan filed therewith, and with all applicable City ordinances and regulations.

1 3. The Permittee, his heirs, successors or assigns shall save and keep the City
2 free and harmless from any and all loss or damages or claims for damages arising from or out of
3 the use of the public way requested herein.

4 4. That all work done under the authority of this resolution shall be subject to
5 the remedial measures identified in the structural engineering report completed by King Kuebler
6 Little, P.E. dated May 10, 2006, attached as Exhibit "E". These measures are identified as items
7 #1 and #2 under "Conclusions and Recommendations" of the report. All work done on the wall to
8 address these remedial measures shall be inspected by a structural engineer followed by a letter
9 stamped by said engineer certifying that the construction was completed as per Exhibit "E".

10 5. This permit may be revoked by resolution of the City Council and after giving
11 of five days written notice to the Permittee by the City Clerk, for the following reasons: (a) failure
12 of the Permittee to pay the compensation required within ten days after the date payment is due;
13 (b) failure or neglect of the Permittee to comply with the provisions of Chapter 14.54 of the Lincoln
14 Municipal Code, or any other provisions of the Lincoln Municipal Code or the provisions of the
15 permit; (c) failure to use the space for which the permit was granted for a continuous period of at
16 least six months or (d) upon a determination by the City that the space for which the permit was
17 granted is needed for public use.

18 Upon revocation of a permit, the Permittee shall forthwith remove or abandon
19 the space for which the permit was granted, together with the removal of any structure at their own
20 cost and expense and return that space to the City of Lincoln, free and clear of all structures or
21 encroachments of any type, at no expense to the City. If the requested removal or abandonment
22 has not been completed within six months after revocation of the permit, the City Council may
23 cause such removal or abandonment to be so done and the cost of such work shall become a lien
24 against the property of the Permittee.

25 6. Permittee shall pay, as rental fee for the space occupied, an amount equal
26 to ten percent of the square foot value, as last fixed by the Board of Equalization, of the lot directly
27 abutting on the use, multiplied by the square footage of the use of space.

1 Said rental payments shall be made to the City Treasurer and shall be due
2 and payable on the 1st day of October of each year; provided however, the amount of the initial
3 payment required hereunder shall be pro-rated from the date when the permit is issued to the 1st
4 day of October of the next year and payments shall be due and payable on October 1st thereafter.
5 Rent shall become delinquent on the 1st day of December of each year and such delinquent rent
6 shall bear interest at the rate of one percent per month until paid and if such rent is not paid for six
7 months or more after such delinquent date, a penalty of five percent shall be added thereto in
8 addition to said interest.

9 7. The use of the public way herein granted and the terms and conditions of this
10 resolution shall be binding and obligatory upon the above-named Permittee, his successors and
11 assigns.

12 8. That within thirty (30) days from the adoption of this resolution, and before
13 commencing any construction under the provisions hereof, the above-named Permittee shall file
14 an unqualified written acceptance of all the terms and conditions of this resolution with the City
15 Clerk. Failure to do so will be considered a rejection hereof and all privileges and authorities
16 hereunder granted shall thereupon ipso facto terminate.

Introduced by:

Approved as to Form and Legality:

City Attorney

Approved this ____ day of _____, 2006:

Mayor